



STATE OF HAWAII
STATE COUNCIL
ON DEVELOPMENTAL DISABILITIES
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HONOLULU, HAWAII 96814
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February 25, 2008

The Honorable Marcus R. Oshiro, Chair
House Committee on Finance
Twenty-Fourth Legislature
State Capitol
State of Hawaii
Honolulu, Hawaii 96813

Dear Representative Oshiro and Members of the Committee:

**SUBJECT: HB 3352 HD2 - RELATING TO AN AUDIT OF THE HAWAII
DISABILITY RIGHTS CENTER**

The position and views expressed in this testimony do not represent nor reflect the position and views of the Department of Health.

The State Council on Developmental Disabilities **OPPOSES HB 3352 HD2**. The purpose of the bill is to require the Auditor to conduct a financial and management audit of the Hawaii Disability Rights Center (HDRC).

We appreciate the Legislature's concern about HDRC's handling of state funds and its approach to resolving the conflict between a patient's right to privacy and its need for access to patient and the patient's records. The Council does not feel that a financial and management audit is necessary for the following reasons:

- 1) The Council, HDRC and the University of Hawaii, Center on Disability Studies (UH-CDS) have specific roles and responsibilities under the DD Assistance and Bill of Rights Act of 2000 (P.L. 106-402). In summary, DD Councils are required to engage in advocacy, capacity-building, and systemic change activities; Protection and Advocacy (P&A) systems (HDRC) are required to protect the legal and human rights of individuals with DD and their families; University Centers for Excellence in DD education, research and service (UH-CDS) are required to provide interdisciplinary pre-service preparation and continuing education, community service, research, and disseminate information.

All three agencies are required to submit an annual program performance report and semi-annual financial status reports to the U.S. Department of Health and Human Services, Administration on DD.

The Honorable Marcus R. Oshiro
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- 2) With regard to the P&A systems, the law [Sec.143. (a)(2)(A)(B)] provides that the system shall have the authority to: a) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for the rights of individuals with DD; and b) to investigate incidents of abuse and neglect (see attached).
- 3) Sec. 143. (a)(2)(l) of the law provides access to all records of any individual with DD (see attached).

It is our understanding that HDRC also operates other P&A programs which require them to complete and submit program and financial reports. Should the Legislature decide that it is still necessary to add another financial and management review of HDRC, we are confident that they will fully cooperate in the audit.

Thank you for the opportunity to submit testimony in opposition to HB 3352 HD2.

Sincerely,



Waynette K.Y. Cabral
Executive Administrator

<DOC>

[DOCID: f:publ402.106]

[[Page 114 STAT. 1677]]

Public Law 106-402

106th Congress

An Act

To improve service systems for NOTE: Oct. 30, 2000 - [S. 1809]>> individuals with developmental disabilities, and for other purposes.

Be it enacted by the Senate and House of NOTE: Developmental Disabilities Assistance and Bill of Rights Act of 2000. Representatives of the United States of America in Congress assembled.

SUBTITLE C- PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS

SEC. 143. NOTE: 42 USC 15043. SYSTEM REQUIRED.

- (a) System Required.--In order for a State to receive an allotment under subtitle B or this subtitle--
- (1) the State shall have in effect a system to protect and advocate the rights of individuals with developmental disabilities;
 - (2) such system shall--
 - (A) have the authority to--
 - (i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such individuals within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of ethnic and racial minority groups; and
 - (ii) provide information on and referral to programs and services addressing the needs of individuals with developmental disabilities;
 - (B) have the authority to investigate incidents of abuse and neglect of individuals with developmental disabilities if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;
 - (C) on an annual basis, develop, submit to the Secretary, and take action with regard to goals (each of which is related to 1 or more areas of emphasis) and priorities, developed through data driven strategic planning, for the system's activities;
 - (D) on an annual basis, provide to the public, including individuals with developmental disabilities attributable to either physical impairment, mental impairment, or a combination of physical and mental impairment, and their representatives, and as appropriate, non-State agency representatives of the State Councils on Developmental Disabilities, and Centers, in the State, an opportunity to comment on--
 - (i) the goals and priorities established by the system and the rationale for the establishment of such goals; and

(ii) the activities of the system, including the coordination of services with the entities carrying out advocacy programs under the Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.), the Older Americans

[[Page 114 STAT. 1715]]

Act of 1965 (42 U.S.C. 3001 et seq.), and the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), and with entities carrying out other related programs, including the parent training and information centers funded under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), and activities authorized under section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012);

- (E) establish a grievance procedure for clients or prospective clients of the system to ensure that individuals with developmental disabilities have full access to services of the system;
- (F) not be administered by the State Council on Developmental Disabilities;
- (G) be independent of any agency that provides treatment, services, or habilitation to individuals with developmental disabilities;
- (H) have access at reasonable times to any individual with a developmental disability in a location in which services, supports, and other assistance are provided to such an individual, in order to carry out the purpose of this subtitle;
- (I) have access to all records of--
 - (i) any individual with a developmental disability who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;
 - (ii) any individual with a developmental disability, in a situation in which--
 - (I) the individual, by reason of such individual's mental or physical condition, is unable to authorize the system to have such access;
 - (II) the individual does not have a legal guardian, conservator, or other legal representative, or the legal guardian of the individual is the State; and
 - (III) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect;and
 - (iii) any individual with a developmental disability, in a situation in which--
 - (I) the individual has a legal guardian, conservator, or other legal representative;
 - (II) a complaint has been received by the system about the individual with regard to the status or treatment of the individual or, as a result of monitoring or other activities, there is probable cause to believe that such individual has been subject to abuse or neglect;
 - (III) such representative has been contacted by such system, upon receipt of the name and address of such representative;

HAWAII DISABILITY RIGHTS CENTER

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Phone (V/TTY): (808) 949-2922 Toll Free (V/TTY): 1-800-882-1057 Fax: (808) 949-2928
E-mail: Info@HawaiiDisabilityRights.org Website: www.HawaiiDisabilityRights.org

TESTIMONY TO THE TWENTY-FOURTH STATE LEGISLATURE, 2008 SESSION

To: House Committee on Finance
From: Gary L. Smith, President
Hawaii Disability Rights Center
Re: House Bill 3352, HD 2
Relating to an Audit of the Hawaii Disability Rights Center.

Hearing: Monday, February 25, 2008 at 2:45 P.M.
Conference Room 308, State Capitol

Members of the Committees on Finance:

Thank you for the opportunity to provide testimony opposing House Bill 3352, HD2 relating to an Audit of the Hawaii Disability Rights Center.

I am Gary L. Smith, President of the Hawaii Disability Rights Center (HDRC), formerly known as the Protection and Advocacy Agency of Hawaii (P&A). As you may know, we are the agency mandated by federal law and designated by Executive Order to protect and advocate for the human, civil and legal rights of Hawaii's estimated 180,000 people with disabilities.

We oppose this bill for the same reasons we expressed during the 2007 legislature, where a very similar Concurrent Resolution was defeated. We are dismayed to see this issue surface again at the legislature. Nothing has changed in the last year to warrant a reconsideration of this bill. Its reintroduction is simply an attempt to use the Legislature to retaliate against HDRC for conducting its federally mandated advocacy on behalf of Hawaii's people with disabilities.

In August 2006, the Hawaii Disability Rights Center (HDRC) received a report of abuse, alleging serious deficiencies in the quality of training and employment, and day and residential care services at Opportunities for the Retarded, Inc. (ORI).

HDRC, the federally-mandated Protection and Advocacy must investigate these reports of abuse and neglect.

ORI strenuously opposed HDRC's lawful investigation, and engaged in tactics that delayed or denied HDRC access to the facility, to clients, and to records.

Failing in the courts, ORI has politicized this situation, and has made repeated broad and baseless allegations that our methodologies were somehow deficient or flawed. As a result, S.B. 2758 and H.B. 3352 have been introduced directing the Legislative Auditor to conduct a financial and management audit of HDRC.

It is important for you to know that the systemic failures are not ours, but ORI's. We urge you to review the report, previously provided to each legislator, "Preliminary Observations, Findings and Recommendations: an Investigation of a Report of Neglect and Abuse at Opportunities for the Retarded, Inc."

We understand that the Legislature is concerned about the litigation between HDRC and Opportunities for the Retarded, Inc. (ORI). The legal proceedings have been seriously protracted. The delay is largely due to the numerous motions filed by the defense in the litigation which took many months to resolve. Since the last legislative session, the following has occurred in the litigation:

- 1) A federal court ruled in favor of HDRC and ordered ORI to comply with HDRC's request for information to conduct its investigation of neglect and abuse at ORI;
- 2) At the request of several legislators, the Department of Attorney General for the State of Hawaii conducted an analysis on the access authority under federal law of HDRC and concluded that it was in agreement with HDRC's analysis of the access authority presented to the Legislature last year;
- 3) The Commissioner of the Federal Administration on Developmental Disabilities (HDRC's primary federal overseer) who visited Honolulu and met with HDRC, ORI and other community organizations and family members fully supported HDRC's activities in connection with the ORI investigation; and,
- 4) At the request of Governor Linda Lingle's office, HDRC prepared and tendered a report summarizing HDRC's observations, findings and recommendations with respect to the allegations of neglect and abuse at ORI.

HDRC and ORI are in the midst of discussions under the supervision of Federal Magistrate Barry Kurren who is attempting to mediate a settlement. Representatives of the respective boards of directors have met and we are continuing our attempts to achieve a collaborative resolution. As recently as today, HDRC met with the Judge who expressed the same displeasure that we did concerning the politicization of this case and the inappropriate attempt to interject the legislature into this matter.

If, after hearing all this, the Legislature nonetheless feels that further inquiry is warranted and wants the Auditor to conduct some review of the HDRC, we then submit that at the very least, the Legislative Auditor should be directed, as part of the audit, to fully examine the findings and conclusions stated in our Report titled "An Investigation of a Report of Neglect and Abuse at Opportunities For The Retarded, Inc." This report raises questions, not only about ORI, but about the actions of several state agencies, such as the Department of Health, Department of Human Services and Department of

Labor and Industrial Relations, who have a responsibility to monitor activities at ORI. Overseeing the operation of state agencies is exactly within the purview of the Legislative Auditor. Additionally, ORI receives a sizeable amount of financial support from the state. So, if the Legislature wants to audit the HDRC because it has questions about the way in which it has conducted its statutorily mandated investigation at ORI, then, for purposes of being thorough and complete, it should direct the Auditor to review the report on our investigation and make recommendations to the Legislature next year for any further action which it deems may be appropriate. In that way, the legislature will receive a complete, unbiased review of the entire picture, as opposed to just focusing on the actions of this agency in isolation.

We hope that you will see that these measures were introduced in an attempt to inappropriately inject the legislature into the midst of ongoing litigation as well as utilize the legislature to discourage us from fulfilling our federal mandate. For those reasons, we respectfully request that your Committee not advance this measure any further.

Thank you for the opportunity to provide testimony in opposition to this bill.

Attachments: HDRC Financial Statements, Independent Auditor's Reports, and Supplementary Schedules for FY ended 2007 and 2006, (see pgs. 22 & 23 reflecting that HDRC has been determined to be "low-risk auditee".)

HAWAII DISABILITY RIGHTS CENTER

**FINANCIAL STATEMENTS,
INDEPENDENT AUDITORS' REPORTS,
AND SUPPLEMENTARY SCHEDULES**

For the Years Ended September 30, 2007 and 2006

HAWAII DISABILITY RIGHTS CENTER

INTRODUCTION

For the Years Ended September 30, 2007 and 2006

Hawaii Disability Rights Center is a nonprofit Hawaii corporation chartered in July 1977 primarily to protect and guarantee the human, civil, and legal rights of persons with developmental disabilities, mental illness, and other disabilities of all ages in the State of Hawaii, and to act as advocates on their behalf. Revenue and support is derived primarily from federal and state grants and contracts. The Governor of the State of Hawaii has designated the Center as the advocacy agency in Hawaii to receive federal funds under the Developmental Disabilities Assistance and Bill of Rights Act of 1975, the Rehabilitation Act of 1973, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, all as amended. Hawaii Disability Rights Center was originally chartered as *Kahua Ho'omalu Kina (A Place of Protection for the Handicapped)*. It changed its name to the *Hawaii Disability Rights Center* in January 2000. The Center is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code and is not a private foundation. Accordingly, qualifying contributions to the Center are tax deductible.

The Center receives federal awards directly from the U.S. Department of Health and Human Services, for a Protection and Advocacy for Individuals with Mental Illness program, Traumatic Brain Injury Protection and Advocacy Grants, Protection and Advocacy Systems: Help America to Vote programs, and a Developmental Disabilities Basic Support and Advocacy Grant. The U.S. Department of Education provides federal awards directly to the Center for a Rehabilitation Services – Client Assistance Program, a Program of Protection and Advocacy of Individual Rights, and an Assistive Technology – State Grants for Protection and Advocacy program. Hawaii Disability Rights Center also receives direct federal awards for Social Security State Grants for Work Incentive Assistance to Disabled Beneficiaries. Additional funding is received from the State of Hawaii for protection and advocacy programs.

This report is the result of a single audit of Hawaii Disability Rights Center, conducted in accordance with auditing standards generally accepted in the United States of America; the *Government Auditing Standards* issued by the Comptroller General of the United States; and the provisions of Office of Management and Budget Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*.

This report includes the financial statements of Hawaii Disability Rights Center as of and for the years ended September 30, 2007 and 2006, with the accompanying footnotes and independent auditors' report. It also includes the independent auditors' reports required by the Government Accountability Office's *Government Auditing Standards*, and the schedule of expenditures of federal awards and independent auditors' reports required by OMB Circular A-133 for the year ended September 30, 2007. Findings and questioned costs (if any) are reported by the auditors under that caption in the final section of this report.

HAWAII DISABILITY RIGHTS CENTER

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For the Years Ended September 30, 2007 and 2006

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HAWAII DISABILITY RIGHTS CENTER
FINANCIAL STATEMENTS AND INDEPENDENT AUDITORS' REPORT
For the Years Ended September 30, 2007 and 2006

Detor & Williams

Certified Public Accountants | A Professional Corporation

INDEPENDENT AUDITORS' REPORT ON FINANCIAL STATEMENTS

Hawaii Disability Rights Center:

We have audited the accompanying statements of financial position of the Hawaii Disability Rights Center (a nonprofit Hawaii corporation) as of September 30, 2007 and 2006, and the related statements of activities, functional expenses, and cash flows for the years then ended. These financial statements are the responsibility of the Center's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States. Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Hawaii Disability Rights Center as of September 30, 2007 and 2006, and the changes in its net assets and its cash flows for the years then ended in conformity with accounting principles generally accepted in the United States of America.

In accordance with *Government Auditing Standards*, we have also issued our report dated February 1, 2008, on our consideration of the Center's internal control over financial reporting and on our tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements and other matters. The purpose of that report is to describe the scope of our testing of internal control over financial reporting and compliance and the results of that testing and not to provide an opinion on the internal control over financial reporting or on compliance. That report is an integral part of an audit performed in accordance with *Government Auditing Standards* and should be considered in assessing the results of our audit.

DETOR & WILLIAMS

February 1, 2008

HAWAII DISABILITY RIGHTS CENTER
STATEMENTS OF FINANCIAL POSITION

As of September 30, 2007 and 2006

	<u>2007</u>	<u>2006</u>
ASSETS		
CURRENT ASSETS		
Cash (including savings accounts)	\$199,178	\$179,940
Government grants receivable – net	107,280	88,169
Prepaid expenses and other current assets	<u>15,424</u>	<u>17,893</u>
Total current assets	<u>321,882</u>	<u>286,002</u>
PROPERTY AND EQUIPMENT – Net	<u>50,855</u>	<u>32,189</u>
LEASE DEPOSIT	<u>8,773</u>	<u>8,773</u>
TOTAL ASSETS	<u>\$381,510</u>	<u>\$326,964</u>
 LIABILITIES AND NET ASSETS		
CURRENT LIABILITIES		
Accounts payable	\$ 31,204	\$ 12,002
Accrued liabilities	6,379	2,390
Deferred revenue	<u>34,696</u>	<u>-</u>
Total current liabilities	<u>72,279</u>	<u>14,392</u>
NET ASSETS		
Unrestricted – undesignated	258,376	280,383
Unrestricted – invested in property and equipment	<u>50,855</u>	<u>32,189</u>
Total net assets	<u>309,231</u>	<u>312,572</u>
TOTAL LIABILITIES AND NET ASSETS	<u>\$381,510</u>	<u>\$326,964</u>

See accompanying notes to financial statements.

HAWAII DISABILITY RIGHTS CENTER

STATEMENTS OF ACTIVITIES

For the Years Ended September 30, 2007 and 2006

	<u>2007</u>	<u>2006</u>
CHANGES IN UNRESTRICTED NET ASSETS		
Revenue and support		
Federal government grants		
Individuals with Mental Illness program	\$ 402,700	\$ 402,700
Developmentally Disabled program	365,940	365,940
Individual Rights program	160,311	160,311
Benefit Planning and Outreach Program	117,064	50,762
Client Assistance program	108,244	119,554
Beneficiaries of Social Security program	96,912	87,270
Traumatic Brain Injury Protection program	47,848	56,284
Help America to Vote program	44,202	54,750
Assistive Technology program	<u>50,000</u>	<u>50,000</u>
Total federal government grants	1,393,221	1,347,571
State of Hawaii grants	167,505	165,505
Program income	134,351	237,025
Indigent Legal Assistance program grant	49,182	52,461
Interest and other income	<u>9,890</u>	<u>71</u>
Total revenue and support	<u>1,754,149</u>	<u>1,802,633</u>
Expenses		
Program services	1,626,238	1,640,135
Management and general	129,667	95,059
Fundraising	<u>1,585</u>	<u>1,626</u>
Total expenses	<u>1,757,490</u>	<u>1,736,820</u>
Increase (decrease) in unrestricted net assets	<u>(3,341)</u>	<u>65,813</u>
INCREASE (DECREASE) IN NET ASSETS	(3,341)	65,813
NET ASSETS – Beginning of year	<u>312,572</u>	<u>246,759</u>
NET ASSETS – End of year	<u>\$ 309,231</u>	<u>\$ 312,572</u>

See accompanying notes to financial statements.

HAWAII DISABILITY RIGHTS CENTER
STATEMENT OF FUNCTIONAL EXPENSES

For the Year Ended September 30, 2007

	<u>Program Services</u>	<u>Management and General</u>	<u>Fund- Raising</u>	<u>Total</u>
Salaries	\$ 898,132	\$ 80,313	\$ 979	\$ 979,424
Employee benefits	90,579	8,100	99	98,778
Pension contributions	82,285	7,358	90	89,733
Payroll taxes	<u>70,475</u>	<u>6,302</u>	<u>77</u>	<u>76,854</u>
Total salaries and benefits	1,141,471	102,073	1,245	1,244,789
Occupancy	158,867	14,206	174	173,247
Legal fees	70,821	-	-	70,821
Travel	50,483	-	-	50,483
Outside services	46,907	-	-	46,907
Equipment rental and maintenance	27,140	2,427	30	29,597
Depreciation	19,497	1,743	22	21,262
Telephone	18,122	1,620	20	19,762
Accounting fees	14,920	1,334	16	16,270
Supplies	12,866	1,150	14	14,030
Insurance	12,172	1,088	14	13,274
Conferences and meetings	12,006	1,074	13	13,093
Advertising	9,405	841	10	10,256
Postage	8,118	726	9	8,853
Books and subscriptions	7,954	-	-	7,954
Dues, licenses, and permits	6,436	575	7	7,018
Interest	3,809	341	6	4,156
Training	-	-	-	-
Small equipment purchases	2,079	186	2	2,267
Miscellaneous	2,102	188	2	2,292
Printing and publications	<u>1,063</u>	<u>95</u>	<u>1</u>	<u>1,159</u>
Total expenses	<u>\$1,626,238</u>	<u>\$129,667</u>	<u>\$1,585</u>	<u>\$1,757,490</u>

See accompanying notes to financial statements.

HAWAII DISABILITY RIGHTS CENTER
STATEMENT OF FUNCTIONAL EXPENSES

For the Year Ended September 30, 2006

	<u>Program Services</u>	<u>Management and General</u>	<u>Fund- Raising</u>	<u>Total</u>
Salaries	\$ 984,831	\$ 60,702	\$1,046	\$1,046,579
Employee benefits	108,573	6,692	115	115,380
Pension contributions	80,210	4,944	85	85,239
Payroll taxes	<u>82,206</u>	<u>5,067</u>	<u>87</u>	<u>87,360</u>
Total salaries and benefits	1,255,820	77,405	1,333	1,334,558
Occupancy	123,890	7,636	132	131,658
Legal fees	12,848	-	-	12,848
Travel	63,834	-	-	63,834
Outside services	22,206	-	-	22,206
Equipment rental and maintenance	28,776	1,773	31	30,580
Depreciation	22,402	1,381	24	23,807
Telephone	19,640	1,211	20	20,871
Accounting fees	16,433	1,013	17	17,463
Supplies	12,576	775	13	13,364
Insurance	11,658	719	12	12,389
Conferences and meetings	10,942	674	12	11,628
Advertising	8,935	551	9	9,495
Postage	6,210	383	6	6,599
Books and subscriptions	5,007	-	-	5,007
Dues, licenses, and permits	6,249	385	7	6,641
Interest	506	202	-	708
Training	3,430	-	-	3,430
Small equipment purchases	7,268	448	8	7,724
Miscellaneous	1,214	485	2	1,701
Printing and publications	<u>291</u>	<u>18</u>	<u>-</u>	<u>309</u>
Total expenses	<u>\$1,640,135</u>	<u>\$ 95,059</u>	<u>\$1,626</u>	<u>\$1,736,820</u>

See accompanying notes to financial statements.

HAWAII DISABILITY RIGHTS CENTER

STATEMENTS OF CASH FLOWS

For the Years Ended September 30, 2007 and 2006

	<u>2007</u>	<u>2006</u>
CASH FLOWS FROM OPERATING ACTIVITIES		
Increase (decrease) in net assets	\$ (3,341)	\$ 65,813
Adjustments to reconcile increase (decrease) in net assets to net cash provided by operating activities:		
Depreciation	21,262	23,807
(Gain) loss on disposal of property and equipment	(9,563)	764
(Increase) decrease in:		
Government grants receivable	(19,111)	5,376
Prepaid expenses and other current assets	2,469	16,609
Increase (decrease) in:		
Accounts payable	19,202	2,354
Accrued liabilities	3,989	(1,808)
Deferred revenue	<u>34,696</u>	<u>(47,451)</u>
Net cash provided by operating activities	<u>49,603</u>	<u>65,464</u>
CASH FLOWS FROM INVESTING ACTIVITIES		
Proceeds from disposal of property and equipment	13,424	-
Additions to property and equipment	<u>(43,789)</u>	<u>(2,465)</u>
Net cash used by investing activities	<u>(30,365)</u>	<u>(2,465)</u>
NET INCREASE IN CASH	19,238	62,999
CASH – Beginning of year	<u>179,940</u>	<u>116,941</u>
CASH – End of year	<u>\$199,178</u>	<u>\$179,940</u>

See accompanying notes to financial statements.

HAWAII DISABILITY RIGHTS CENTER

NOTES TO FINANCIAL STATEMENTS

NOTE A – SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Organization and Activity

Hawaii Disability Rights Center is a nonprofit Hawaii corporation chartered in July 1977 primarily to protect and guarantee the human, civil, and legal rights of persons with developmental disabilities, mental illness, and other disabilities of all ages in the State of Hawaii, and to act as advocates on their behalf. Revenue and support is derived primarily from federal and state grants and contracts. The Governor of the State of Hawaii has designated the Center as the advocacy agency in Hawaii to receive federal funds under the Developmental Disabilities Assistance and Bill of Rights Act of 1975, the Rehabilitation Act of 1973, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, all as amended. Hawaii Disability Rights Center was originally chartered as *Kahua Ho'omalu Kina (A Place of Protection for the Handicapped)*. It changed its name to the *Hawaii Disability Rights Center* in January 2000.

Amounts received from government agencies are subject to audit and adjustment. Any disallowed claim, including amounts already collected, may constitute a liability. Management expects such amounts, if any, to be immaterial to the financial statements. Revenue and support is derived principally from government grants and contracts, the loss of such government grants and contracts could have a material adverse effect on the Center.

The Center is exempt from federal income taxes under Section 501(c)(3) of the U.S. Internal Revenue Code and is not a private foundation. Accordingly, qualifying contributions to the Center are tax deductible.

Basis of Accounting

The Center reports information regarding its financial position and activities according to three classes of net assets: unrestricted net assets, temporarily restricted net assets (none in 2007 and 2006), and permanently restricted net assets (none in 2007 and 2006). Contributions are recorded as unrestricted, temporarily restricted, or permanently restricted support depending on the existence and/or nature of any donor restrictions. Support is reported when pledged and is considered to be available for unrestricted use unless restricted by the donor. Donor restricted support is reported when pledged as an increase in temporarily restricted or permanently restricted net assets, depending on the nature of the restriction. When a temporary restriction is satisfied or expires, temporarily restricted net assets are reclassified to unrestricted net assets.

Revenue from government grants and contracts is recognized to the extent of expenditures made in accordance with the related agreements (including expenditures for property and equipment, which are capitalized and depreciated for financial reporting purposes). Revenue received in excess of such expenditures is deferred. Expenses are recorded when the related liability is incurred. Expenses are allocated on a functional basis among the various program and support services based on estimates by management. Expenses that can be identified with the program or supporting service are charged directly to the program or supporting service using natural expense classifications. Other expenses that are common to several functions are allocated by various bases. Advertising costs are expensed as incurred.

Use of Estimates

The accompanying financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America, which require management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Actual results could differ from those estimates, and it is reasonably possible that such estimates may change within the near-term.

Concentrations of Credit Risk

Financial instruments that potentially subject the Center to credit risk include cash and receivables. Cash on deposit with financial institutions exceeded the related federal deposit insurance by approximately \$147,500 at September 30, 2007 and \$91,400 at September 30, 2006. Management evaluates the credit standings of these financial institutions to ensure that all funds are adequately safeguarded as required by federal regulations. Receivables are due primarily from governmental agencies and have been adjusted for all known doubtful accounts. They are determined to be collectible or uncollectible based on an assessment by management of the facts and circumstances related to individual receivable amounts.

Property and Equipment

Property and equipment is stated at cost or, if donated, at estimated fair market value at the date of donation. Depreciation is computed using the straight-line method over estimated useful lives of 5 years for computers, office equipment, and office furniture and fixtures, and over the term of the underlying lease for leasehold improvements. Property and equipment and other long-lived assets are reviewed for impairment whenever events or changes in circumstances indicate that the related carrying amounts may not be recoverable. Major improvements and expenditures for property and equipment in excess of \$500 are capitalized. Repairs and maintenance are expensed.

Pension

The Center sponsors a simplified employee pension plan (SEP) covering all employees who have worked in at least two of the immediately preceding five years. Pension expense, which is funded as accrued, amounted to \$89,733 for the year ended September 30, 2007 and \$85,239 for the year ended September 30, 2006.

NOTE B – PROPERTY AND EQUIPMENT

At September 30, 2007 and 2006, property and equipment consisted of the following:

	<u>2007</u>	<u>2006</u>
Computers	\$108,557	\$ 86,086
Other office equipment	90,948	91,625
Office furniture and fixtures	23,391	24,320
Leasehold improvements	<u>6,630</u>	<u>6,630</u>
Total	229,526	208,661
Accumulated depreciation	<u>(178,671)</u>	<u>(176,472)</u>
Property and equipment – net	<u>\$ 50,855</u>	<u>\$ 32,189</u>

NOTE C – LINE-OF-CREDIT

The Center has a \$250,000 line-of-credit available with First Hawaiian Bank available through March 2008, which is collateralized by its cash accounts and bears interest at the Bank's base rate plus 1%. There were no advances outstanding on the line-of-credit at September 30, 2007 and 2006. The Bank's base rate was 7.5% and 8.25% at September 30, 2007 and 2006, respectively.

NOTE D – LEASE COMMITMENTS

The Center leases office space in Honolulu, Hawaii on the island of Oahu under an operating lease expiring in February 2011 and leases office space on other islands on a month-to-month basis. Rent expense for office space (included in occupancy expense) amounted to \$154,206 for the year ended September 30, 2007 and \$116,477 for the year ended September 30, 2006. The Center also leases office equipment under operating leases expiring in December 2012. Rent expense for office equipment (included in equipment rental and maintenance expense) amounted to \$13,598 for the year ended September 30, 2007 and \$14,224 for the year ended September 30, 2006.

At September 30, 2007, future minimum future operating lease payments by fiscal years ending September 30th approximated \$155,400 in 2008, \$158,400 in 2009, \$160,700 in 2010, \$73,600 in 2011, \$13,400 in 2012, and \$2,200 in 2013.

NOTE E – FINANCIAL STATEMENT PRESENTATION

Certain amounts in the 2006 financial statements have been reclassified to conform to the 2007 presentation. The Center operates throughout the State of Hawaii. National and international events can have severe, adverse effects on economic conditions in Hawaii. The effects, if any, on the financial statements of the Hawaii Disability Rights Center from such changes in economic conditions are not presently determinable.

HAWAII DISABILITY RIGHTS CENTER
REPORTS REQUIRED BY GAO *GOVERNMENT AUDITING STANDARDS*
For the Year Ended September 30, 2007

Detor & Williams

Certified Public Accountants | A Professional Corporation

INDEPENDENT AUDITORS' REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING AND ON COMPLIANCE AND OTHER MATTERS BASED ON AN AUDIT OF FINANCIAL STATEMENTS PERFORMED IN ACCORDANCE WITH *GOVERNMENT AUDITING STANDARDS*

Hawaii Disability Rights Center:

We have audited the financial statements of the Hawaii Disability Rights Center (a nonprofit Hawaii corporation) as of and for the year ended September 30, 2007, and have issued our report thereon dated February 1, 2008. We conducted our audit in accordance with auditing standards generally accepted in the United States of America and the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States.

Internal Control over Financial Reporting

In planning and performing our audit, we considered the Center's internal control over financial reporting as a basis for designing our auditing procedures for the purpose of expressing our opinion on the financial statements, but not for the purpose of expressing an opinion on the effectiveness of the Center's internal control over financial reporting. Accordingly, we do not express an opinion on the effectiveness of the Center's internal control over financial reporting.

A *control deficiency* exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect misstatements on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to initiate, authorize, record, process, or report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements that is more than inconsequential will not be prevented or detected by the entity's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that a material misstatement of the financial statements will not be prevented or detected by the entity's internal control.

Our consideration of internal control over financial reporting was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control over financial reporting that we consider to be material weaknesses, as defined above.

Compliance and Other Matters

As part of obtaining reasonable assurance about whether the Center's financial statements are free of material misstatement, we performed tests of its compliance with certain provisions of laws, regulations, contracts, and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed no instances of noncompliance or other matters that are required to be reported under *Government Auditing Standards*.

This report is intended solely for the information and use of management, the audit committee, Board of Directors, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.

DETOR & WILLIAMS

February 1, 2008

HAWAII DISABILITY RIGHTS CENTER
REPORTS REQUIRED BY OMB CIRCULAR A-133
For the Year Ended September 30, 2007



Certified Public Accountants | A Professional Corporation

**INDEPENDENT AUDITORS' REPORT ON COMPLIANCE WITH
REQUIREMENTS APPLICABLE TO EACH MAJOR PROGRAM,
ON INTERNAL CONTROL OVER COMPLIANCE, AND ON THE
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS
IN ACCORDANCE WITH OMB CIRCULAR A-133**

Hawaii Disability Rights Center:

Compliance

We have audited the compliance of the Hawaii Disability Rights Center (a nonprofit Hawaii corporation) with the types of compliance requirements described in the U.S. Office of Management and Budget (OMB) *Circular A-133 Compliance Supplement* that are applicable to each of its major federal programs for year ended September 30, 2007. The Center's major federal programs are identified in the summary of auditors' results section of the accompanying schedule of findings and questioned costs. Compliance with the requirements of laws, regulations, contracts, and grants applicable to each of its major federal programs is the responsibility of the Center's management. Our responsibility is to express an opinion on the Center's compliance based on our audit.

We conducted our audit of compliance in accordance with auditing standards generally accepted in the United States of America; the standards applicable to financial audits contained in *Government Auditing Standards*, issued by the Comptroller General of the United States; and OMB Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*. Those standards and OMB Circular A-133 require that we plan and perform the audit to obtain reasonable assurance about whether noncompliance with the types of compliance requirements referred to above that could have a direct and material effect on a major federal program occurred. An audit includes examining, on a test basis, evidence about the Center's compliance with those requirements and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion. Our audit does not provide a legal determination of the Center's compliance with those requirements.

In our opinion, the Hawaii Disability Rights Center complied, in all material respects, with the requirements referred to above that are applicable to each of its major federal programs for the year ended September 30, 2007.

Internal Control over Compliance

The management of the Hawaii Disability Rights Center is responsible for establishing and maintaining effective internal control over compliance with the requirements of laws, regulations, contracts, and grants applicable to federal programs. In planning and performing our audit, we considered the Center's internal control over compliance with requirements that could have a direct and material effect on a major federal program in order to determine our auditing procedures for the purpose of expressing our opinion on compliance and to test and report on the internal control over compliance in accordance with OMB Circular A-133.

A *control deficiency* in an entity's internal control over compliance exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect noncompliance with a type of compliance requirement of a federal program on a timely basis. A *significant deficiency* is a control deficiency, or combination of control deficiencies, that adversely affects the entity's ability to administer a federal program such that there is more than a remote likelihood that noncompliance with a type of compliance requirement of a federal program that is more than inconsequential will not be prevented or detected by the entity's internal control.

A *material weakness* is a significant deficiency, or combination of significant deficiencies, that results in more than a remote likelihood that material noncompliance with a type of compliance requirement of a federal program will not be prevented or detected by the entity's internal control.

Our consideration of internal control over compliance was for the limited purpose described in the first paragraph of this section and would not necessarily identify all deficiencies in internal control that might be significant deficiencies or material weaknesses. We did not identify any deficiencies in internal control that we consider to be material weaknesses, as defined above.

Schedule of Expenditures of Federal Awards

We have audited the basic financial statements of the Hawaii Disability Rights Center (a nonprofit Hawaii corporation) as of and for the year ended September 30, 2007, and have issued our report thereon dated February 1, 2008. Our audit was performed for the purpose of forming an opinion on the basic financial statements taken as a whole. The accompanying Schedule of Expenditures of Federal Awards is presented for purposes of additional analysis as required by U.S. Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and is not a required part of the basic financial statements. Such information has been subjected to the auditing procedures applied in the audit of the basic financial statements and, in our opinion, is fairly stated, in all material respects, in relation to the basic financial statements taken as a whole.

This report is intended solely for the information and use of management, the audit committee, Board of Directors, and federal awarding agencies and pass-through entities and is not intended to be and should not be used by anyone other than these specified parties.



February 1, 2008

HAWAII DISABILITY RIGHTS CENTER
SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

For the Year Ended September 30, 2007

<u>Program Title</u>	<u>Federal CFDA Number</u>	<u>Agency or Pass-through Number</u>	<u>Federal Expenditures</u>
U.S. Department of Health and Human Services			
Direct programs			
Protection and Advocacy for Individuals with Mental Illness	93.138	SMX159700-07-02	\$ <u>443,814</u>
Traumatic Brain Injury Protection and Advocacy Grant		1X82MC07259-01-00	28,356
Traumatic Brain Injury Protection and Advocacy Grant		1X82MC08189-01-00	<u>19,114</u>
Total	93.267		<u>47,470</u>
Protection and Advocacy Systems: Help America to Vote		G-0603HIVOTP	39,655
Protection and Advocacy Systems: Help America to Vote		G-0703HIVOTP	<u>4,547</u>
Total	93.618		<u>44,202</u>
Developmental Disabilities Basic Support and Advocacy Grants*	93.630*	G-0701HIPA12*	<u>459,177*</u>
Total U.S. Department of Health and Human Services			<u>994,663</u>
U.S. Department of Education			
Direct programs			
Rehabilitation Services – Client Assistance Program	84.161A	H161A060012B	<u>108,244</u>
Program of Protection and Advocacy of Individual Rights	84.240A	H240A060012B	<u>163,433</u>
Assistive Technology – State Grants for Protection and Advocacy	84.343A	H343A060012B	<u>50,000</u>
Total U.S. Department of Education			<u>321,677</u>

(Continued)

HAWAII DISABILITY RIGHTS CENTER

SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS (Continued)

For the Year Ended September 30, 2007

<u>Program Title</u>	<u>Federal CFDA Number</u>	<u>Agency or Pass-through Number</u>	<u>Federal Expenditures</u>
Social Security Administration			
Direct programs			
Social Security State Grants for Work Incentive Assistance to Disabled Beneficiaries		17-A-20014-9-02	\$ 19,102
Social Security State Grants for Work Incentive Assistance to Disabled Beneficiaries		17-A-20014-9-03	<u>77,810</u>
Total	96.009*		<u>96,912*</u>
Work Incentives Planning and Assistance Program		14-W-50027-9-01	72,709
Work Incentives Planning and Assistance Program		14-W-50027-9-02	<u>44,355</u>
Total	96.008		<u>117,064</u>
 Total Social Security Administration			 <u>213,976</u>
 Total Expenditures of Federal Awards			 <u>\$1,530,316</u>

NOTES TO SCHEDULE OF EXPENDITURES OF FEDERAL AWARDS

The accompanying schedule of expenditures of federal awards was prepared on the accrual basis of accounting. (*) Denotes major programs, comprising 36% of total expenditures of federal awards of a low-risk auditee.

HAWAII DISABILITY RIGHTS CENTER
FINDINGS AND QUESTIONED COSTS
For the Year Ended September 30, 2007

HAWAII DISABILITY RIGHTS CENTER
CURRENT YEAR FINDINGS AND QUESTIONED COSTS

For the Year Ended September 30, 2007

SUMMARY OF AUDIT RESULTS

The auditors expressed an unqualified opinion on the Center's financial statements.

No deficiencies or combinations of deficiencies material to the Center's internal control over financial reporting were reported by the auditors.

No instances of noncompliance material to the Center's financial statements were reported by the auditors.

The auditors expressed an unqualified opinion on compliance for the Center's major federal award programs.

No deficiencies or combinations of deficiencies material to the Center's internal control over compliance were reported by the auditors.

No audit findings related to the Center's major federal award programs were reported by the auditors.

The programs tested as major programs were the Developmental Disabilities Basic Support and Advocacy Grants (CFDA #93.630) and the Social Security State Grants for Work Incentive Assistance to Disabled Beneficiaries (CFDA #96.009). Major programs comprised 36% of total expenditures of federal awards of a low-risk auditee.

The threshold for distinguishing Types A and B programs was \$300,000.

The Hawaii Disability Rights Center was determined to be a low-risk auditee because there were no reportable conditions or material findings and questioned costs reported in either of its two preceding annual single audits.

FINDINGS – FINANCIAL STATEMENTS AUDIT

In the current year, no deficiencies or combinations of deficiencies material to the Center's internal control over financial reporting and no instances of noncompliance material to the Center's financial statements were reported by the auditors.

FINDINGS AND QUESTIONED COSTS – MAJOR FEDERAL AWARD PROGRAMS AUDIT

In the current year, the auditors expressed an unqualified opinion on compliance for the Center's major federal award programs. No deficiencies or combinations of deficiencies material to the Center's internal control over compliance were reported by the auditors in the current year.

HAWAII DISABILITY RIGHTS CENTER
SUMMARY SCHEDULE OF PRIOR AUDIT FINDINGS

For the Year Ended September 30, 2007

FINDINGS – FINANCIAL STATEMENTS AUDIT

In the prior year, no reportable conditions or material findings related to the audit of the Center's financial statements were reported by the auditors.

FINDINGS AND QUESTIONED COSTS – MAJOR FEDERAL AWARD PROGRAMS AUDIT

In the prior year, no reportable conditions or material findings and questioned costs related to the audit of the Center's major federal award programs were reported by the auditors.

From: Linda Elento, Member of The Hawaii Down Syndrome Congress

To: COMMITTEE ON FINANCE
Rep. Marcus Oshiro, Chair
Rep. Marilyn Lee, Vice Chair

Re: FIN February 25, 2008, 2:45p

HB3352 In Support

Relating to an Audit of the Hawaii Disability Rights Center.

I write this letter on behalf of the many families I have come to meet since the birth of my son Jason who was born with Down syndrome seven years ago. These families all have in common children with disabilities and lack of services we know our children need to improve their health and their lives. We hear about the theory of spending \$1 in early childhood education saves the state \$7 in the long term. Assisting our children and families I speak of, in the manner these individuals require (not by policy or procedure based on an ill-advised theory or lack of knowledge), is priceless.

The federal government provides non-profit agencies and state agencies money directly and expect these agencies (*other examples are Head Start organizations and the Department of Education*) to report to the federal government that they comply with federal law. Where is the State Legislature in assuring that our State's needs are being met when these agencies are allowed to decide whom to serve, when to serve and how to serve, to spend those federal and state tax dollars, and report their own information? Please don't assume the federal government provides an audit to determine what our State's needs are and that the funded agency is serving such needs.

Supporting facts:

The Individuals with Disabilities Education Improvement Act of 2004 authorizes its grants to fund an advocacy agency to support children with disabilities who need special education and related services. With lack of knowledge and access to resources that could help these children, the schools cannot provide a free appropriate public education (FAPE) to these children.

To my knowledge, HDRC is the named protection and advocacy center to provide services under the IDEA. But, HDRC selects priority needs that affect the services available to the public. When FAPE is not a priority for HDRC, the protection and services is hindered for families with children with disabilities who desperately need help in obtaining the services and accommodations they are mandated by federal and state laws to receive. These families have no where to go, except a private attorney, administrative hearing, state court, federal court. My family has already proven that the State spends thousands of dollars for us to take our matters to administrative hearings, including court reporter services, and federal court). This process is a physical, mental, emotional, and financial drain on families and our state resources.

My son Jason was eligible for special education through the Department of Education when he turned three years old. Over the past 3 ½ years I have contacted HDRC about four or five times, at least twice we were denied assistance. I found to have worked with HDRC personnel a waste of time even though I hoped for my child to receive speech and sign language instruction in a setting appropriate for his developmental stage of 18 months old (not his older chronological age that he was at during that time). Even when the court allowed a settlement between Developmental Disability Division and HDRC, it took months before I received the assistance of an HDRC representative, which in the end (7 MONTHS LATER) only served the purpose of attending meetings with DDD to apply for Medicaid through the Department of Human Services, receiving evaluations, completing forms, meetings, and then being denied all services and funding. My son still does not receive public school services, and the DDD has also determined that my son's needs are the "parent's responsibility." State agencies are no where to be found when we need help even though they receive federal monies to do so. We are turned away and told to go to the DOE, where they are not able to provide the services my child needs, including speech swallow therapy because he has dysphagia/swallowing disorder, a common disorder in children with Down syndrome, and sign language instruction with speech because he also has a slower rate of speech development due to his Down syndrome.

Another parent of a preschool aged child who was eligible for special education services was drained when the HDRC attorney was not well versed in special education matters and left HDRC before the conclusion of the administrative hearing. That child has not been to school since the disappointing decision determined by the hearings officer that the attorney did not prove by preponderance of the evidence that the school did not offer FAPE.

To: House Finance Committee

From: Dennis Chun

RE: HB 3352

Relating to an Audit of the Hawaii Disability Rights Center

Hearing: Monday, February 25, 2008 2:45
Conference Room

Testimony in Support

HDRC has been designated by the state of Hawaii as their P&A under federal law. Not only do they have oversight over hospitals, schools, care home and retirement homes but also for every citizen in this state since we will all grow old and many of us will become prematurely disabled; eventually, we will all become disabled. We will care not only for ourselves but for all those who we love and care for. An agency such as this is only as good as its management; we know of the chaos that can ensue when an agency with a wide mandate acts without professionalism and competence. For good or ill, HDRC can affect every family in this state.

In a last ditch effort to avoid an audit by the State Auditor, HDRC has submitted a confusing litany of observations on their investigation of ORI to some lawmakers. HDRC refused to give ORI a copy for over a week after it had been distributed. The report lacks the specificity, clarity and insight that should be expected or required from an agency that uses the federal court as a preferred means to enforce its perceived mandates. It is appalling that a report that has a year of work behind it would make an issue of the who had to pay for the rental of a tuxedo. Clear thinking and wise judgment should be mandatory for any agency with the power to disrupt the lives of our families.

ORI is but one of hundreds of organizations are part of HDRC's coverage; so are thousands of families. Unless I die suddenly, there is a possibility that I will be included in that coverage; disability eventually comes to us all. We must require good management, transparency, professionalism and competence from an agency with HDRC's power. As Spiderman's uncle said "With great power comes great responsibility". It is required from those who wield that power such as HDRC and from those who have granted that power and must oversee the use of that power - the community and this legislature.

FINtestimony

From: hpr@hawaii.rr.com
ent: Friday, February 22, 2008 10:14 PM
To: FINtestimony
Subject: Testimony in Support of HB # 3352, HD2 with amendments suggested

TO: House Committee on Finance
FROM: Yvonne de Luna
RE: House Bill # 3352, HD2
RELATING TO AN AUDIT OF THE HAWAII DISABILITY RIGHTS
CENTER
No. 2 in the Finance Committee Agenda
HEARING: Monday, February 25, 2008, 2:45 pm
Conference Room 308, State Capitol

Dear Members of the House Committee on Finance:

I am submitting this testimony in support of House Bill # 3352, which requires the auditor to perform a financial and management audit of the Hawaii Disability Rights Center (HDRC), currently the state's designated protection and advocacy (P&A) agency. I am also asking for you to put back the effective date to July 1, 2008, and to consider an audit of HDRC once every seven (7) years for quality assurance.

I support this bill for several reasons:

First of all, HDRC's overall financial accountability, operations, effectiveness of governance, and appropriate administration of programs and services have not been reviewed by the state and there currently is no system of review under our state laws to ensure HDRC is doing its job since its inception 30 years ago. The Developmental Disabilities Act, a federal law which led to the creation of P&A agencies such as HDRC, has to be reviewed by Congress every 7 years. It seems even Congress felt it was necessary to do a review on its laws.

Secondly, it is my understanding, based on reports from the Attorney General's Office in September and October of 2007, that "there is authority for the Legislature to direct the auditor to conduct an investigation...Under the DD (Developmental Disabilities) Act and its regulations, the State (Governor) is responsible for designating a P&A initially and can redesignate the P&A for 'good cause' Section 104(a)(4) of the DD Act: 45 CFR 1386.20...and in fact, the state is responsible for making the 'good cause' determination. If there is evidence that indicates a redesignation of HDRC as the state's P&A agency ought to occur, there are federal procedures which must be followed." Moreover, the reports say that information from an investigation might assist the state in deciding how to proceed with regards to our state's P&A.

Federal law grants broad authority to P&A agencies such as HDRC, a private, non-profit corporation. I feel that an institution created by federal law and an agency designated through an Executive Order 30 years ago, should have been subject to regular reviews by the state, as a check and balance, to determine if this particular agency's designation is still appropriate and whether there is 'good cause' to justify changes in the system or designation.

Government funds are limited especially when it comes to the protection of our state's vulnerable people. Appropriate and efficient utilization of these funds/resources, which have a direct impact on our community, should be reviewed by our state on a regular basis.

I support the idea that possibly, through this audit, the Legislature and the Governor, will have the opportunity to evaluate HDRC's policies, financial, program, operation and administration management. Although HDRC has some federal oversight, our state should conduct its own evaluation and oversight to ensure the agency it designated is effective,

efficient, reasonable and fair and, most importantly, meeting the needs of our state and our community. As an example, according to the Attorney General's reports in Sept. and Oct. 2007, regulations do not directly address potential redundancy with other statewide advocacy programs. It seems to me P&A efforts should focus on augmenting current services and not duplicate them, which would make financial sense.

An audit by the auditor should not be considered as punitive but rather it is a means for our state to do quality assurance of services. An audit could provide appropriate recommendations, which may help to improve policies, procedures and practices as well as evaluate any other issues affecting our community, people with disabilities and their families/guardians. The audit can also look into complaints raised against HDRC by individuals with disabilities, their families/guardians and service providers.

I support the idea of hearings such as this where the public has yet another opportunity to provide input. Although HDRC does hold public meetings to obtain public input, I feel the "check and balance" from our state should be actively applied to assure that the community's input receive its due consideration from HDRC. It is the right time for government and the community to re-visit and discuss the values we hold with regards to the care and protection of people with disabilities, the intent of the laws, and to determine if the law or the manner in which it is implemented need to change.

Important issues has been raised as to how HDRC resolves conflicts between a patient and their rights to privacy, conflicts on the service providers' obligations to disclose patient information and records to HDRC, and conflicts on the justification and manner in which HDRC demands from service providers and their families/guardians unrestricted and unaccompanied access to the patient and the patient's records. Also, how HDRC handles abuse and neglect complaints, how it determines the merit of litigation as opposed to other means of dispute resolution and how it handles complaints/grievances against it, should be evaluated.

Thank you and I hope to gain your support for this bill.

##

FINtestimony

From: hpr@hawaii.rr.com
Sent: Sunday, February 24, 2008 4:56 PM
To: FINtestimony
Subject: HB3352 Testimony

To: The House Finance Committee
From: Ron Renshaw
Re: Testimony in Support of HB3352
Hearing: Monday, February 25, 2008 at 2:45 p.m. in Room 308

Dear Representatives,

Thank you for this opportunity to submit testimony in strong support of HB3352. The legislature conferred upon the Hawaii Disability Rights Center (HDRC), with its designation as the state's Protection and Advocacy system, the powers and responsibilities that position entails. The legislature should assume some responsibility in ensuring that those powers are properly used and should have a quantifiable method of determining whether the P&A system is using its powers and meeting its responsibilities in the manner in which the legislature intends. The audit requested in HB3352 would provide the legislature with such quantifiable information. The state routinely audits other agencies and departments receiving public funds, yet the P&A system has not had a state audit since its designation some 30 years ago. The numerous recent complaints and criticism of HDRC's methods and practices, and HDRC's extreme resistance to this audit, indicate a need for such an audit; a need that should not be put off any longer. Please join me in support of HB3352. Mahalo nui loa.

Respectfully submitted, Ronald R. Renshaw

FINtestimony

From: kuulei [kuuleikiliona@hawaii.rr.com]
Sent: Friday, February 22, 2008 2:03 PM
To: FINtestimony
Subject: HB 3352 HD2

TESTIMONY IN SUPPORT OF HB 3352 HD2

TO: The House Committee on Finance
Rep. Marcus Oshiro, Chair and Vice Chair, Rep. Marilyn Lee

FROM: Ku'u lei A. Killiona

Date: Monday, February 25, 2008
Time: 2:45 pm
Place: Conference Room 308

Dear Rep.'s Oshiro, Lee and Committee Members,

This testimony is in strong support of House Bill 3352 HD 2, although I do have one suggestion. I ask that the Act take effect in 2008 or 2009.

Mahalo for the opportunity to submit testimony on this very important measure.

Aloha,

Ku'u lei A. Killiona
(kuuleikiliona@hawaii.rr.com)

FINtestimony

From: Ethel Yamane [ehy@hawaii.rr.com]
Sent: Monday, February 25, 2008 9:14 AM
To: FINtestimony
Cc: HPPR@hawaii.rr.com
Subject: Testimony on HB#3352 .HD 2, Relating to An Audit of the Hawaii Disability Rights Center

Testimony on HB #3352 .HD2
(HSCR483-08)
Date of Hearing: Monday, February 25, 2008
AGENDA # 5

Relating to An Audit of the Hawaii Disability Rights Center

As a concerned citizen, I have observed the struggles of private providers of services to persons with developmental disabilities in providing guidance, protection, education in an environment comparable to any other services for other citizens within the state. As a former administrator with the Department of Health which provided funding and oversight to these private providers of services, I have always marveled at the dedication, patience and sincere interest of the staff working with the clients. When I look back on the Waimano Institution for the mentally retarded and the care of the mentally challenged in the community today, there is no comparison. The clients in the community are really enjoying a normal life in the community.

The Hawaii Disability Rights Center has a right to advocate for persons with disabilities but the persons with developmental disabilities also have the right to privacy. Only when there are specific complaints on someone, the record should be open to HDRC. Otherwise, it will be like a witch hunt looking to find something to charge the providers with. The providers are regularly monitored for compliance by the licensing agency, the funding agencies, both Federal and State. Abuse cases are also reported to the Adult Protective Services of the Department of Human Services.

HDRC has hired attorneys to charge different programs with non-compliances and have made monetary settlements with the programs involved. The private agencies do not have the funds to be paying thousands of dollars to HDRC. Their funds really need to be used to care for the persons with disabilities.

In view of the ongoing disputes with HDRC, an audit of the agency's management and funding activities are warranted. I would also recommend that the audit be completed by January 1, 2010 rather than January 1, 2050.

Respectfully submitted,
Ethel Yamane

FINtestimony

From: Ben Ramelb [ramelbb001@hawaii.rr.com]
Sent: Sunday, February 24, 2008 8:04 AM
To: FINtestimony
Subject: Fw: Audit bill hearing in FIN Monday- Feb 25

To the Finance Committee:

We are parents/guardians of a mentally handicapped daughter and strongly support HB3352.

HDRC claims to have the power to act against the interests of clients' families and guardians. We ask for an investigation on the use of these powers and that the auditor reaffirm that there are right and proper decisions occurring under state law.

Respectfully,
Ben & MarianRamelb
Salt Lake Residents